

REMARKS/ARGUMENTS

Claims 1-2, 5-10 and 12-20 are pending. Claims 1, 17, 19 and 20 have been amended.

The purpose of the amendments made herein is to remove issues for appeal and to place the claims in better condition for appeal.

Claim 1 was rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. In particular, it was alleged that the recitation of "wherein each stored reference data set is associated with none, one or more of said systemic autoimmune diseases" constituted new matter in that the specification does not appear to contemplate reference data sets associated with two or more of the named systemic autoimmune diseases. To remove issues for appeal, applicants have amended claim 1 to recite "wherein each stored reference data set is associated with none or one of said systemic autoimmune diseases". Accordingly, withdrawal of this rejection to claim 1 is respectfully requested.

Claim 17 was rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. In particular, it was alleged that the recitation of "has a specific association with one of said systemic autoimmune diseases" constituted new matter in that the specification at page 4, lines 24-26 does not appear to disclose or contemplate the concept of a specific association or what the level of association this might reflect. To remove issues for appeal, applicants have amended claim 17 to recite "each of the stored reference data sets is associated with one of said systemic autoimmune diseases." Such limitation no longer includes reference to "a specific association" and is similar to an uncontested limitation in claim 1. Accordingly, withdrawal of this rejection to claim 17 is respectfully requested.

Claim 19 was rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. In particular, it was alleged that support on page 3 of the specification for the recitation that the values for the reference data set and the test data set

are each determined simultaneously does not speak to multiple data sets being determined simultaneously. It is respectfully asserted that Applicants referred to page 9, lines 11-14 as providing additional support for claim 19 in the last response. However, to remove issues for appeal, applicants have amended claim 19 to recite "wherein the data values obtained for the test data set are determined simultaneously in an automated test system." Thus, claim 19 only recites that the test data set has values that are obtained simultaneously. Accordingly, withdrawal of this rejection to claim 19 is respectfully requested.

Claim 20 was rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. In particular, it was alleged that support on page 3 of the specification for the recitation that the set-off tests are performed substantially simultaneously does not disclose or contemplate the concept of "substantially simultaneously" and that it is not known what time frame meets this limitation. It is respectfully asserted that Applicants referred to page 9, lines 11-14 as providing additional support for claim 20 in the last response. However, to remove issues for appeal, applicants have amended claim 20 to recite "wherein for the biological sample of the test subject the set of one or more tests are performed substantially simultaneously in an automated test system." Thus, claim 20 only recites that the one or more tests are performed substantially simultaneously for the test subject test data set. It is respectfully asserted that "substantially simultaneously" in the context of performing one or more tests on a sample, for example in a multiplexed system as set forth in the paragraph beginning at page 9, line 10, is fully supported and is sufficiently clear to one skilled in the art. Accordingly, withdrawal of this rejection to claim 20 is respectfully requested.

CONCLUSION

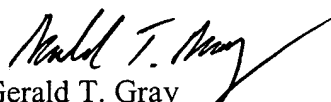
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Appl. No. 09/691,405
Amdt. dated October 26, 2004
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,


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